



Serial No. 09/523,079

13DV-13466

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Brian L. Gerhardt

Serial No. 09/523,079

Filed: March 10, 2000

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RESPONSE TO NOTIFICATION OF
NON-COMPLIANCE WITH 37 CFR 1.192(c)

Mail Stop Appeal Brief - Patents
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S I R:

In response to the Notification of Non-Compliance with 37 CFR 1.192(c) dated August 12, 2003, appellant submits herewith, in triplicate, a complete new Appeal Brief (13 pages) that is in compliance with 37 CFR 1.192(c).

The Notification of Non-Compliance indicated that the original brief included the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet did not present arguments in support thereof in the argument section of the brief. The original brief stated that claims 1-3 and 6 do not

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stand or fall together and that claims 7-9 and 12 do not stand or fall together. Appellant submits that while arguments were provided in support of separate bases of patentability for claims 2 and 3 (the paragraph bridging pages 7 and 8 of the original brief) and for claims 8 and 9 (the first full paragraph on page 10 of the original brief), no arguments were provided in support of separate bases of patentability for claims 6 or 12. Accordingly, in the new Appeal Brief submitted herewith appellant indicates that claims 1-3 do not stand or fall together and claims 7-9 do not stand or fall together, while claims 1 and 6 do stand or fall together and claims 7 and 12 do stand or fall together. Arguments in support for separate bases of patentability of claims 2,3, 8 and 9 are provided on pages 8 and 10 of the new Appeal Brief.

The Notification of Non-Compliance indicated that the original brief did not present an argument under a separate heading for each issue on appeal as required by 37 CFR 1.192(c)(8). The original brief distinguished the two issues on appeal in the argument section with the designations "1)" and "2)." The new Appeal Brief submitted herewith provides more distinct headings.

In view of the above, it is submitted that the new Appeal Brief submitted herewith is in compliance with 37 CFR 1.192(c).

Respectfully submitted,

9/12/03

Date

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